

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jurgen Schultz Art Unit : 3627
Serial No. : 10/553,292 Examiner : Obaid, Fateh M.
Filed : November 10, 2006 Conf. No. : 8644
Title : METHOD AND DEVICE FOR DISTRIBUTING PACKAGES AND
 OTHER SIMILAR DISPATCHED ARTICLES

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Commissioner for Patents
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REPLY BRIEF

This document is submitted in response to the Examiner's Answer ("Answer"), mailed July 1, 2011, to Appellant's Appeal Brief ("Appeal Brief"), filed May 4, 2011.

Alleged Teaching of Sensor Units

In the Answer, the Examiner has maintained the rejections of claims 1-19 under 35 U.S.C. 103(a) as being unpatentable over *Bloom* in view of *Robare*. The Examiner contends that *Bloom* discloses the claimed invention but acknowledges that *Bloom* fails to explicitly disclose "sensor units for detecting identification data, package sizes (length, width, height, weight), addresses and geo coordinates, respectively" as recited in independent claim 11. The Examiner however cites *Robare* as disclosing the sensor units, arguing that "it would have been obvious to one having ordinary skill in the art at the time of the invention was made to use *Robare*'s teachings in *Bloom*'s Method and Apparatus For Efficient Packet Delivery and Storage enabled, for the advantage of faster sorting and distribution the items to the destination."¹

Furthermore, the Examiner has maintained the position that

"[i]t would have been obvious to one having ordinary skill in the art at the time of the invention was made to use Robare sensing

¹ *Examiner's Answer*, Page 5.

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devices 25 that measure the speed, direction, angular acceleration, and so on in detecting identification data, such as packages sizes as an upgrade for faster sorting and distribution the items to the destination.”²

The Applicant maintains that for the reasons presented in the Appeal Brief³, neither *Bloom* nor *Robare*, taken alone or in any proper combination discloses “sensor units for detecting identification data, package sizes (length, width, height, weight), addresses and geo coordinates, respectively,” as recited in independent claim 11.

There is another reason that the Examiner has erred in rejecting claim 11 under 35 USC 103(a) as being unpatentable over *Bloom* in view of *Robare*. The Applicant notes that it is well established that

“[a] reference is only good for what it clearly and definitely discloses.”⁴

At best, *Robare* describes “sensing devices 25 that measure the speed, direction, angular acceleration, and so on of the vehicle.”⁵ The Applicant maintains that “speed, direction, and angular acceleration” can not properly be equated to “length, width, height, weight” as is recited in claim 11.

In particular, speed is expressed in units of distance over time (e.g., meters/second), angular acceleration is expressed as a rate of change of angular velocity over time (e.g., in units of radians/second), and direction is expressed in terms of left, right, North, South, East, West, up, down, etc. In contrast, physical characteristics such

² Examiner’s Answer, page 9.

³ Appeal Brief, Section 2.

⁴ *In re Hughes*, 145 U.S.P.Q. 467, 471 (C.C.P.A. 1965); *In re Moreton*, 129 U.S.P.Q. 227, 230 (C.C.P.A. 1961).

⁵ *Robare*, U.S. Patent No. 5,501,073, at col. 3, lines 57-59.

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as "length, width, height" are measured in units of distance (e.g., meters or feet) and weight is expressed in units such as lbs. or kilograms.

One of ordinary skill in the art would realize that *Robare's* sensing devices are clearly incapable of measuring the same physical characteristics as the sensors recited in claim 11 (i.e., "length, width, height, weight"). For this reason, the Applicant can only assume that the Examiner considers the phrase "and so on" to mean that *Robare's* sensing devices are capable of measuring any and all arbitrary physical quantities including length, width, height, and weight.

However, *Robare's* use of the phrase "and so on" can not reasonably be considered to "clearly and definitely" disclose sensor units that are capable of detecting "length, width, height, weight" as is recited by independent claim 11.

No fee is believed to be due in connection with the filing of this reply brief. However, to the extent any fee may be due, or if a refund is forthcoming, please adjust our Deposit Account No. 50-4189, referencing Attorney Docket No. 4A005-002US1.

Respectfully submitted,

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